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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,003	12/12/2000	Steven Bertrand		3687

7590

04/07/2005

Steven Bertrand  
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EXAMINER
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BARNEY, SETH E

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/734,003

Applicant(s)

BERTRAND, STEVEN

Examiner

Seth Barney

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,071,081 to Mullick.

Regarding claims 1 and 14, Mullick discloses a showerhead mixing device having:

-a first cylindrical region (cylindrical region before 23 where the inlet pipe rests on the triangular shaped member) that receives water

-a shelf (the place where the inlet pipe contacts the triangular member), at one end of the first cylindrical region, narrowing the diameter of the first cylindrical region

-a second region (the region starting at the base of the triangular shaped member and ending towards the end of the restriction) that then receives water, with a gradually narrowing diameter permitting free and unobstructed flow (the annular space around the triangular member is free and unobstructed) of the water therein, in communication with the shelf.

-a cylindrical porting region (starting and ending towards the end of triangular shaped member) that receives the water, permitting free and unobstructed flow of water

(the annular space around the tip of the triangular member is free and unobstructed) therein, constricting the end of the second region.

-a third region (from the point of most restriction of triangular member to the end of 17) that then receives water, in communication with the porting region.

-an inlet in communication with the third region, the inlet positioned after the third region receives water from the porting region.

-a tube (33) attached to the inlet.

-a solution apparatus (30) in communication with the tube.

-a point of dispersal of water (18), in communication with the third region.

Regarding claim 4, the inlet can intake solution.

Regarding claim 5, the porting region increased the velocity of water.

Regarding claim 6, the third region uses a venture force to combine solution from the solution apparatus with water exiting from the porting region.

Regarding claim 7, the solution apparatus has at least on solution reservoir.

Regarding claim 8, the solution apparatus holds a solution.

Regarding claim 9, the solution reservoir has at least one aperture (33a) for release of the solution.

Regarding claim 10, the aperture is in communication with a supply hose (thicker part above 33a, below 33)

Regarding claim 11, the supply hose is attached to the tube, in communication with the inlet.

Regarding claims 12 and 13, the solution can be soap or shampoo.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,071,081 to Mullick.

Mullick discloses all of the limitation set forth in the claim except for the second region being conical. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Mullick to have the second region conical in shape since the shape would depend on the desired spray pattern.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sb

Seth Barney  
Examiner  
Art Unit 3752



**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**